UNITED STATES PATENT AND TRADEMARK OFFICE

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10/695,971	10/28/2003	Yasuhiro Oshima	ITECP003	8001

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _17 July 2009_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,2,7,10,11 and 16_ is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,2,7,10,11 and 16_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All   b)☐ Some * c)☐ None of:

  1.☐ Certified copies of the priority documents have been received.

  2.☐ Certified copies of the priority documents have been received in Application No. _____.

  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

This Non-Final Office action is in response to the response filed on July 17, 2009.

Claims 1-2, 7, 10-11 and 16 are pending.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

07/17/2009 has been entered.

Priority

Acknowledgement is made of applicant's claim for foreign priority to Japanese

Application JAPAN 2002-312469 and 202-312470 filled on 10/28/2002. Should

applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior

to declaration of an interference, a certified English translation of the foreign application

must be submitted in reply to this action. 37 CFR 41.154(b) and 41.202(e).

Failure to provide a certified translation may result in no benefit being accorded

for the non-English application.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 1-2, 7, 10-11 and 16 are rejected under 35 U.S.C. 102(a) as being

anticipated by Asami et al., U.S. Pub No. 2001/0005833 (reference A in attached PTO-

892).

3.   As per claim 1, Asami et al. teach a commodity sales system that is connected

with a user computer in a communicable manner and is used when a user purchases a

commodity (see Fig. 1) trades in a used personal computer, said commodity sales

system comprising:

> at least one server computer (see Fig. 1, Web Server (5)), the at least one server
>
> computer including;
>
> a commodity price specification module that receives a purchase request of a

selected commodity from the user computer and specifies a commodity price of the

selected commodity (see Fig. 8, Product Selection Page (116), Selling Price; Fig. 9);

> a storage module that stores a component price table including both a maximum

trade- in price and a minimum trade-in price corresponding to each component included

in a used personal computer (see Fig. 20; paragraph [0151, 0153]; where used item

searching and reservation capabilities is used to search trade-in prices of item desired

in terms of recent upper limit recent resale prices (maximum) and price desired by the

seller (minimum));

a maximum/minimum price determination module that, when a trade-in request of

a used personal computer and component information regarding each of components

included in the used personal computer are received from the user computer, reads out

a maximum trade-in price and a minimum trade-in price corresponding to each of the

components based on the received component information from the component price

table, and determines a maximum price of the used personal computer as a sum of the

maximum trade-in prices of the components and a minimum price of the used personal

computer as a sum of the minimum trade-in prices of the components (see Fig. 16 and

Fig. 18; where used item is assessed indicating resale price upper limit (Y 160.00) and

assessment price after deduction for scratches or defects (Y 153.00);

a tentative quote setting module that sets the minimum price determined by the

maximum/minimum price determination module to a tentative quote of the used

personal computer (see Fig. 7; paragraphs [0121]; where resale prices of used items

quoted by registered seller with minimum price set such that if resale price drops below

minimum, the seller is informed by e-mail);

a deduction setting module that, when the tentative quote exceeds a first

reference value, determines that an assessment of the used personal computer is

required upon receipt of the used personal computer by the commodity sales system

and sets the minimum price of the used personal computer to a deduction of the

selected commodity, which is to be subtracted from a specified price of the commodity,

when the tentative quote is not greater than the first reference value but exceeds a

second reference value which is smaller than the first reference value, determines that

the assessment is not required and sets the tentative quote of the used computer to the

deduction of the commodity, and when the tentative quote is not greater than the

second reference value, determines that the assessment is not required and sets a

preset fixed price, which does not depend upon the tentative quote, to the deduction of

the commodity (see Fig. 16, paragraph [0141]; where used product is assessed from

upper limit of resale price as indicated by previous sale and deducted for scratches and

defects; trade-in product assessed is deducted from item purchased as shown in Fig. 18

and 19; examiner notes if deduction for scratches and defects is greater than resale

price of trade-in product, the assessment of trade-in product is not required); and

an amount payable notification module that subtracts the setting of the deduction

from the specified price of the selected commodity to calculate a difference and notifies

the user computer of the calculated difference as an amount payable, wherein the

amount payable notification module, when the tentative quote exceeds the first

reference value, further notifies the user computer of the maximum price and the

minimum price of the used personal computer, and notifies that, if a final trade-in price

of the used personal computer determined after the assessment exceeds the minimum

price, an amount of difference between the final trade-in price and the minimum price is

to be refunded to the user (see Fig. 19, Reference Price with Trade-in Credit: 100,000;

paragraph [0149]); assessment of used article may result no value for trade-in item and

user may have to pay full price for main unit purchased); and

wherein the commodity price specification module, the storage module, the

maximum/minimum price determination module, the tentative quote setting module, the

deduction setting module, and the amount payable notification module are implemented as program instructions stored on a computer-readable storage medium (see Fig. 1).

The addition of claim language to the deduction setting module "to determine a final trade-in price of the used computer" pertains to intended use recitation which does not carry any patentable weight (see MPEP form paragraph 07-37-09)

Examiner notes that recitation of intended use of commodity price module, storage module, maximum/minimum price determination module, tentative quote setting module and amount payment notification module. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim (see MPEP form paragraph 07-37-09).

4.   As per claim 2, Asami et al. teach claim 1 as described above. Asami et al. further teach the system wherein

said deduction setting module sets the deduction to be not less than a preset support price (see Fig. 16; where deduction is based on resale price upper limit).

5.   As per claim 7, Asami et al. teach claim 1 as described above. Asami et al. further teach the system wherein

said deduction setting module, in the case where said quote determination module determines trade-in quotes of multiple used articles, sets a total deduction of the selected commodity, which is to be subtracted from the specified commodity price of the selected commodity, according to a sum of the trade-in quotes of the multiple used

articles or a sum of deductions set for the respective used articles (see Fig. 18; where total trade-in amount represents total cost multiple used articles).

6.   As per claim 10, Asami et al. teach a commodity sales method that is carried out when a user purchases a selected commodity and trades in a used personal computer, said commodity sales method comprising the steps of:

(a) causing a server computer to receive a purchase request of a selected commodity from the user computer and specify a commodity price of the selected commodity (see Fig. 8 and 9);

(b) causing the server computer to receive a trade-in request of a used personal computer and component information regarding each component included in the used personal computer from the user computer, to refer to a component price table including both a maximum trade-in price and a minimum trade-in price corresponding to each component included in a used personal computer, read out a maximum trade-in price and a minimum trade-in price corresponding to each of the components based on the received component information from the component price table ((see Fig. 20; paragraph [0151, 0153]; where used item searching and reservation capabilities is used to search trade-in prices of item desired in terms of recent upper limit recent resale prices (maximum) and price desired by the seller (minimum)); and

to determine a maximum price of the used personal computer as a sum of the maximum trade-in prices of the components and a minimum price of the used personal computer as a sum of the minimum trade-in prices of the components (see Fig. 16-19;where assessed trade-in item is deducted from purchased price of desired product)

(c) causing the server computer to set the minimum price determined in said step

(b) to a tentative quote of the used personal computer (see Fig. 13, resale price (113);

where reseller set minimum price for an item);

(d) causing the server computer to, when the tentative quote exceeds a first

reference value, determine that an assessment of the used personal computer is

required upon receipt of the used personal computer by the commodity sales system

and set the minimum price of the used personal computer to a deduction of the selected

commodity, which is to be subtracted from a specified price of the commodity,

when the tentative quote is not greater than the first reference value but exceeds

a second reference value which is smaller than the first reference value, determine that

the assessment is not required and set the tentative quote of the used computer to the

deduction of the commodity, and when the tentative quote is not greater than the

second reference value, determine that the assessment is not required and set a preset

fixed price, which does not depend upon the tentative quote, to the deduction of the

commodity (see Fig. 16, paragraph [0141]; where used product is assessed from upper

limit of resale price as indicated by previous sale and deducted for scratches and

defects; trade-in product assessed is deducted from item purchased as shown in Fig. 18

and 19; examiner notes if deduction for scratches and defects is greater than resale

price of trade-in product, the assessment of trade-in product is not required); and

(e) causing the server computer to subtract the setting of the deduction from the

specified price of the selected commodity to calculate a difference (see Fig. 18) and

notify the user computer of the calculated difference as an amount payable (see Fig. 19,

Reference Price with Trade-in Credit =100,000)

wherein said step (e), when the tentative quote exceeds the first reference value,

causes the server computer to further notify the user computer of the maximum price

and the minimum price of the used personal computer, and notify that, if a final trade-in

price of the used personal computer determined after the assessment exceeds the

minimum price, an amount of difference between the final trade-in price and the

minimum price is to be refunded to the user (see Fig. 19, Reference Price with Trade-in

Credit: 100,000; paragraph [0149]); assessment of used article may result no value for

trade-in item and user may have to pay full price for main unit purchased or vice versa).

The addition of claim language "to determine a final trade-in price of the used

computer" pertains to intended use recitation which does not carry any patentable

weight (see MPEP form paragraph 07-37-09).

Examiner notes that recitation of intended use of commodity price module,

storage module, maximum/minimum price determination module, tentative quote setting

module and amount payment notification module. A recitation of the intended use of the

claimed invention must result in a structural difference between the claimed invention

and the prior art in order to patentably distinguish the claimed invention from the prior

art. If the prior art structure is capable of performing the intended use, then it meets the

claim (see MPEP form paragraph 07-37-09).

7.   As per claim 11, Asami et al. teach claim 10 as described above. Claim 11 is

rejected under same rational as claim 2 described above.

8.   As per claim 16, Asami et al. teach claim 10 as described above. Claim 16 is

rejected under same rational as claim 7 described above.

Response to Arguments

9.   New grounds of rejections of the claims necessitated by applicant amendments

have been established in the instant application. Applicant's arguments with respect to

claims have been considered but are moot in view of the new ground(s) of rejection.

        Applicant recited method claim 10 as " causing a server computer to receive....;

to set...; to determine...; and to subtract ... which appear to indicate intended use of a

server computer. Examiner recommends applicant to replace above language by

"receiving, by a server computer, a purchase request of a selected commodity..." and

so on for part a, b, c, d and e of the claim 10 in order to positively recite the invention

within the claim.

        Examiner further notes that recitation of intended use of commodity price

module, storage module, maximum/minimum price determination module, tentative

quote setting module and amount payment notification module. A recitation of the

intended use of the claimed invention must result in a structural difference between the

claimed invention and the prior art in order to patentably distinguish the claimed

invention from the prior art. If the prior art structure is capable of performing the

intended use, then it meets the claim (see MPEP form paragraph 07-37-09).

Conclusion

10.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosures. The following are pertinent to current invention, though not

relied upon:

Ellenson et al. (U.S. Pub No. 2003/0200151) teach system and method for

facilitating the real-time pricing, sale and appraisal of used vehicles.

Katada et al. (U.S. Pub No. 2004/0230504) teach apparatus unit replacement

assisting method and system.

Ly et al. (U.S. patent No. 7,216,094) teach web vehicle ordering system.

Gilbert et al. (U.S. Pub No. 2003/0126062) teach system and method for

creating and trading dynamic securities.

Magouirk et al. (U.S. Patent No. 6,941,305) teach customer management system

for automobile sales industry.

Seretti et al. (U.S. Patent No. 5,978,776) teach vehicle data exchange system

and method therefor.

Takaoka et al. (U.S. Pub No. 2002/099628) teach estimated price providing

apparatus, system, method and computer program and computer readable medium.

Walker et al. (U.S. Pub No. 2007/0219868) teach system and method for

offering multiple products.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijendra K. Shrestha whose telephone number is (571) 270-1374. The examiner can normally be reached on 7:00 AM-4:30 PM (Monday-Friday); 2nd Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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